IN THE UNITED STATES BANKRUPTCY COURT FOR THE
EASTERN DISTRICT OF TENNESSEE AT KNOXVILLE

IN RE:

Stephen and Amy Wilson **NO: 3:16-BK-33564-SHB**
Debtor(s)
Chapter 7

DEBTORS MOTION FOR CONTEMPT FOR VIOLATING AUTOMATIC STAY

Notice is hereby given that:
A hearing will be held April 6, 2017 at 9:00 a.m., in Courtroom 1-C, Howard H. Baker, Jr., U.S. Courthouse, 800 Market Street, Knoxville, TN 37902, on the following:

Debtors Motion for Contempt for Violating Automatic Stay against Nellie R. McFalls and her attorney, Market Street Law PLLC and J. Tyler Roper

If you do not want the court to grant the relief requested, you or your attorney must attend this hearing. If you do not attend the hearing, the court may decide that you do not oppose the relief sought in the above matter and may enter an order granting that relief.

Come the Debtors, by counsel, and would show this Honorable Court the following:

1. On 11/30/2016 the Debtors filed a Chapter 7 Petition. The Debtors listed Nellie McFalls and her attorney J. Tyler Roper with the firm of Market Street Law, PLLC (hereafter “creditor”) as a creditor in their bankruptcy case.

2. Upon information and belief, the creditor received notice of the bankruptcy filing from the Clerk of the U. S. Bankruptcy Court (Doc #14).

3. On 12/1/16, counsel for the debtors faxed the notice of bankruptcy filing and a copy of a *subpoena ducus tecum* styled Nellie R. McFalls v. Steve and Amy Wilson to Market Street Law, PLLC informing them of the bankruptcy filing and to stop all collection activities.

(See fax with proof of fax receipt attached as Exhibit A)

4. Post- petition, the creditor Nellie McFalls, through her attorneys at Market Street Law, PLLC filed a garnishment which was served on the Steven Wilson's employer.

5. On or about March 10, 2017 counsel for the debtor confirmed with the Clerk of the Knox County General Sessions Court a garnishment had been requested by Ms. McFalls by her attorney Market Street Law, PLLC after the bankruptcy filing.

6. As of the filing of this motion for contempt the garnishment has not been released and through the paycheck dated March 17, 2017 this creditor has garnished $433.12. (See paycheck attached as Exhibit B)

7. This action to collect a debt is a willful violation of the automatic stay pursuant to 11 U.S.C. § 362(a)(6).

8. The debtors have actual damages and legal expenses as a result of the violation of the automatic stay.

WHEREFORE, after notice and a hearing the debtors would pray that this Honorable Court:

1. Enter and issue a Certificate of Contempt pursuant to 11 U.S.C. § 362(a)(6) and (k).
2. Assess actual damages incurred by the debtors, attorney fees necessary to prosecute and additional punitive damages for Nellie McFalls and Market Street Law, PLLC's willful violation of the automatic stay.
3. Any general and further relief to which the debtors are entitled.

DATED: March 22, 2017

/S/ Cynthia T. Lawson
Cynthia T. Lawson, #18397

Attorney for Debtors
6704 Watermour Way
Knoxville, TN 37812
(865) 938-0733

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and exact copy of the foregoing MOTION FOR CONTEMPT has been forwarded to the following by first class mail:

Michael H. Fitzpatrick (ECF)
Chapter 7 Trustee

Tiffany A. DiIorio, Esq. (ECF)
Attorney for the U.S. Trustee

Nellie McFalls (USM)
through her attorney
Market Street Law, PLLC
713 Market St., Ste 120
Knoxville, TN 37902

J. Tyler Roper (USM and email tyler@marketstreetlawyer.com)
Market Street Law, PLLC
713 Market St., Ste 120
Knoxville, TN 37902

Date: March 22, 2017

/S/ Cynthia T. Lawson
CYNTHIA T. LAWSON, #18397